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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/682,176	07/31/2001	Christine L. Corriveau	112703-183	9018
29156	7590	03/22/2004	EXAMINER	
BELL, BOYD & LLOYD LLC			CORBIN, ARTHUR L	
P. O. BOX 1135			ART UNIT	
CHICAGO, IL 60690-1135			PAPER NUMBER	

1761

DATE MAILED: 03/22/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/682,176

Applicant(s)

CORRIVEAU ET AL

Examiner

ARTHUR L. CORBIN 1761

Group Art Unit

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—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- ☒ Responsive to communication(s) filed on 1-23-04
- ☒ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 1-26 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☒ Claim(s) 1-26 is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☐ Claim(s) \_\_\_\_\_ are subject to restriction or election requirement

## Application Papers

- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some\* ☐ None of the:
- ☐ Certified copies of the priority documents have been received.
- ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_
- ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

Office Action Summary

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-7, 9-15, 17, 18 and 21-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherukuri et al.

Applicant is referred to the reasoning set forth in paragraph Nos. 6 and 7, Paper No. 5; paragraph Nos. 3 and 7, Paper No. 7 and paragraph No. 3, Paper No. 13.

3. Claims 8, 16, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cherukuri et al as applied to claims 1-7, 9-15, 17, 18 and 21-26 are above, and further in view of Ream et al.

Applicant is referred to the reasoning set forth in paragraph No. 8, Paper No. 5.

4. Claims 1-26 also are rejected under 35 U.S.C. 103(a) as being unpatentable over Ream et al (columns 1-6) in view of Cherukuri et al or Athanikar et al.

Applicant is referred to the reasoning set forth in paragraph No. 9, Paper No. 5 and to the last two sentences in paragraph No. 3, Paper No. 13

5. Applicant's arguments filed January 23, 2004 have been fully considered but they are not persuasive. Although Cherukuri et al does not specifically mention the term "tableting media", Cherukuri et al does include a powdered substance in the chewing gum composition therein, viz. powdered flavoring (column 7, line 66) and dry powdered active agent (column 9, lines 40-42). Either of these powdered substances are

equivalent to applicant's tableting media since applicant claims a powder as the tableting media (claims 2 and 8) and page 8 of spec.). Like applicant's powder, the powder used by Cherukuri et al naturally has a particle size smaller than the 4-30 mesh gum granules used therein.

Applicant's non-homogeneous distribution is due to the difference in particle size between applicant's gum chips and tableting media (page 7, last 2 lines of spec.). Since Cherukuri et al's powder is obviously smaller in particle size than the gum granules used therein, Cherukuri et al also obviously achieves a tableted gum having a non-homogeneous distribution of gum granules and powder. Nowhere does Cherukuri et al state that a homogeneous distribution is desired, as applicant suggests. Avoiding segregation of particles during tableting, as Cherukuri et al desires (column 4, lines 12-17), is not contrary to achieving a non-homogeneous particle distribution.

Applicant's contention, that the particle mixing which occurs in Ream et al would avoid a non-homogeneous distribution of particles, is without merit since Ream et al does not disclose a homogeneous distribution and since applicant also mixes the different size particles together before forming a tablet (page 7 of spec.). Further, Ream et al obviously achieves a non-homogeneous distribution of particles since Ream et al uses chewing gum particles as large as 6 mm, (column 6, line 38), which are larger than the crystalline powder sweet confection (column 5, lines 8-9) used in the chewing gum. This difference in size of these two components results in a non-homogeneous distribution thereof, as indicated by page 7, last two lines of applicant's specification.

Athanikar et al is used as a secondary reference as set forth above. Thus, it is irrelevant whether or not Athanikar et al achieves a non-homogeneous particle distribution.

6. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

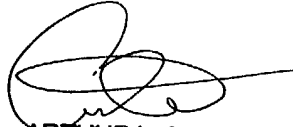
7. Any inquiry concerning this communication from the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can generally be reached Monday- Friday from 10:30 am to 8 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1398. The fax phone number for the organization where this application is assigned is (571) 273-1390.

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Art Unit: 1761

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A. Corbin/dh  
March 15, 2004

  
ARTHUR L. CORBIN  
PRIMARY EXAMINER  
3-17-04